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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,393	06/04/2001	Louis chevalier	PF 980067	8508

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT PAPER NUMBER

2623

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/806,393	Applicant(s) CHEVALLIER ET AL.	
	Examiner Dominic D. Saltarelli	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 30, 2005 have been fully considered but they are not persuasive. Applicant's arguments regarding claims 8 and 15 are directed towards amendments which are not supported in the originally filed specification as described below.

First, applicant argues that Rzeszewski fails to solve the same problem as applicant's invention (applicant's remarks, page 6, second paragraph and page 7, lines 11-15).

In response, as described below, the problem seeking to be solved by applicant is not met by the structure being claimed. The claimed limitations will actually introduce the problem of inconsistency by suspending the copying of data from the first to second database when a new list of services is available. Should the user access the second database when it has only been partially updated from the first because a new list of services was made available (as claimed), then the user will be presented with an inconsistent list of services.

Second, applicant argues that Rzeszewski fails to disclose the copying from a first to second database is triggered by the reception of a new list of services (applicant's remarks, page 7, lines 5-7).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant

relies (i.e., copying being triggered by the reception of a new list of services) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims merely recite copying the list of services from the first to second database when the entire list has been acquired, meaning the scope of the claim encompasses copying the list at any time after the acquisition of the list from the stream into the first database, and not immediately after and directly in response to the acquisition of said list.

Third, applicant argues that Rzeszewski fails to disclose copying information from the first database to the second database be suspended during acquiring a new list of services (applicant's remarks, page 7, lines 7-9).

In response, Rzeszewski discloses suspending any copying of information from the database to VRAM until it is verified that the most recent services data has been received (col. 5 line 56 – col. 6 line 30, specifically col. 6, lines 15-30), which meets the claimed limitations of suspending the copying of information from the first database to the second database be suspended during acquiring a new list of services.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 8 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Regarding claim 8, the newly added limitation of "the copying being suspended during acquiring of a new list of services" on lines 8-9 is contrary to the invention as described in the originally filed specification. Claim 8 recites suspending the updating of contents of the second database when a new list of services is being acquired by the first database. However, the originally filed specification discloses just the opposite. Page 11, lines 29-33 state "A pair of methods Lock/Unlock makes it possible to suspend/resume the updating of the database from the stream so that the UI is temporarily furnished with a consistent image (although possible outdated) of the list of services." Page 16, lines 6-11 state "In particular, if all the updates relating to the information of a given service are not performed at the same time in the restitution part, then inconsistencies may arise temporarily between data which have been updated and data which have not yet been updated." Lastly, page 16, lines 30-33 state "The pair of Lock/Unlock methods makes it possible to suspend/resume the updating of the database from the stream. Thus the user interface is furnished with a consistent

image of the list of services.” From these passages, it is clear that the originally filed specification teaches only updating the restitution part (second database) when there is a complete set of data to transfer, preventing inconsistencies between updated and non-updated data in the restitution part. If the copying of data to the restitution part were to suddenly be suspended when the database is to be updated from the stream (as currently claimed), this would lead to said inconsistencies being presented to the user interface, which the originally filed specification seeks to avoid.

Claim 15 suffers from the same deficiency, as the newly added limitation in lines 11-12 “means for suspending updating of the second database from the first database during acquiring a new list of services” results in the same data inconsistencies the originally filed specification seeks to avoid, as described above.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 8-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Rzeszewski et al. (5,699,125, of record) [Rzeszewski].

Regarding claim 8, Rzeszewski discloses a process for managing service data in a television system in which the service data are transmitted (col. 1, lines 50-55), comprising a step of acquiring information containing a list of broadcast services and supplementary data relative to these services (col. 4, lines 26-37) and of storing the acquired information in a first database of a receiver (memory 18, col. 5 line 56 – col. 6 line 5); wherein

the process comprises the step of:

- copying information stored in the first database to a second database of the receiver for the updating of the said second database (VRAM, col. 6, lines 6-14), the copying being suspended during acquiring of a new list of services (data is not copied until the new list has been acquired, col. 6, lines 15-30);
- making the data stored in the said second database available to at least one application of the said receiver (the application with access to the second database is the one used for displaying the program guide information on the CRT, col. 6, lines 10-14); and
- when the acquired list of broadcast services changes, of acquiring the new list of services in the first database (when it is determined that the stored guide data is no longer current, col. 6, lines 15-30), and of copying the acquired list of broadcast services to the

second database when the entire list has been acquired in the first database (col. 6, lines 15-30, specifically lines 25-30).

Regarding claim 9, Rzeszewski discloses the process according to claim 8, wherein the updating of the second database is performed immediately after acquiring a service datum (col. 6, lines 15-30).

Regarding claims 10 and 11, Rzeszewski discloses the process according to claims 8 and 9, wherein the updating of the second database is performed after a predetermined time interval after a request for acquisition of a service datum (there is inherently a time interval between completion of the updating of the first database in memory 18 and the updating of the same database into VRAM, col. 6, lines 15-30).

Regarding claim 12, Rzeszewski discloses the updating of the second database is performed only following a request of an application (the database information is transferred to VRAM only upon request of the program guide application which is attempting to display a program guide on screen in response to a user request, col. 5 lines 30-45 and col. 6, lines 6-30).

Regarding claim 13, Rzeszewski discloses the process according to claim 9, wherein the moment of the update is dependent on the type of the service

datum (updating the information in the VRAM is dependent upon the channel to which the service datum is associated, as the updating step takes longer when the channel is not on the "select channel list", col. 5, lines 46-55 shows the updating taking place from a channel not on the "select channel list" and col. 6, lines 6-14 shows the updating taking place when the channel is on the "select channel list", and as shown in col. 6, lines 10-14, service datum of the type on the "select channel list" is loaded more quickly than service datum which is not of the type on the "select channel list").

Regarding claim 14, Rzeszewski discloses the process according to claim 8, the process furthermore comprising the steps of:

- when a service changes, acquiring new supplementary information relating to this service (information that is not current is removed and updated with the current information, col. 6, lines 19-23) and suspending the updating of the second database with the new supplementary information until a request of an application (the database information is transferred to VRAM only upon request of the program guide application which is attempting to display a program guide on screen in response to a user request, col. 5 lines 30-45 and col. 6, lines 6-30).

Regarding claim 15, Rzeszewski discloses a television receiver in a television system with transmission of service data (col. 1, lines 50-55), comprising:

- means for acquiring information containing a list of broadcast service and supplementary data relative to these services (col. 5, lines 30-45, wherein the list and data is described col. 4, lines 26-57);
- means for storing information in a first service database (memory 18, col. 5 line 56 – col. 6 line 5);
- means for copying the acquired list of broadcast services to a second database (VRAM, col. 6, lines 6-14);
- detection means of a change to the list of broadcast services (col. 6, lines 19-23), the detection means controlling the means for copying the list of broadcast services (program 30 running the process shown in fig. 3, col. 5, lines 30-45); and
- means for suspending updating of the second database from the first database during acquiring of a new list of services (data is not copied in VRAM until the new list of services has been acquired, col. 6, lines 15-30).

Conclusion

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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